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FISCAL IMPACT STATEMENT

LS 7773
BILL NUMBER: HB 1657

NOTE PREPARED: Jan 31, 2007
BILL AMENDED:

SUBJECT: Forestry Issues.

FIRST AUTHOR:
FIRST SPONSOR:

BILL STATUS:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Income Tax Deductions:* This bill provides deductions to an individual in determining adjusted gross income (AGI) for a taxable year for (1) expenses incurred by the individual for property taxes imposed on property assessed as native forest land or a forest plantation; (2) expenses incurred by the individual for fees for the management of forests located on property assessed as native forest land or a forest plantation; (3) 50% of the part of federal AGI attributable to a net long-term capital gain derived from the sale of timber; and (4) charitable contributions of property assessed as native forest land or a forest plantation.

Forest Legacy Program: The bill authorizes the Department of Agriculture (IDOA) to develop a forest legacy award program to recognize families and organizations that have preserved forested land in Indiana for extensive periods of time.

Department of Natural Resources (DNR): The bill requires the Department of Natural Resources (DNR) to implement an educational program concerning sustainable forests and maintain an inventory of forests.

Forest Stewardship Fund: The bill establishes the Forest Stewardship Fund.

Forestry Best Management Practices Board: The bill establishes the Forestry Best Management Practices Board. It also requires loggers to use best management practices. It establishes penalties for not using best management practices or abating water pollution while harvesting timber.

Registration of Timber Cutting: It requires the owner of timber land to register with the DNR 30 days before harvesting timber.

Licensing of Loggers: It also requires loggers to be licensed and to complete a master logger program and continuing education. It requires each timber harvesting site to have a licensed logger.

Effective Date: July 1, 2007; January 1, 2008.

Explanation of State Expenditures: *Income Tax Deductions:* This bill will increase the administrative costs of the Department of State Revenue (DOR). The DOR will have to amend the Income Tax forms, procedures, and rules, as well as update computer software. It is estimated that the provisions of this bill can be implemented within the existing level of resources available to the DOR.

Department of Agriculture: The bill provides that the IDOA must establish an information and education program to develop public awareness of the importance of the forests of Indiana; to promote forest stewardship and sound forest utilization practices by private woodland owners and the forest industry; and to coordinate with other agencies and organizations to assure effective long-term forest conservation programs. The IDOA must implement an education program that emphasizes sustainable forests and the full range of economic, ecological, and social opportunities provided by privately owned forests by sponsoring field days that enable individual woodland owners to recognize and resolve problems that are encountered in dealing with woodland resources; developing demonstration programs involving forests and management of forest ecosystems; developing and implementing programs that give special attention to educational needs of small, private, nonindustrial forest landowners; and supporting the Purdue University Cooperative Extension Service in promoting and conducting technology transfer education programs specifically for woodland owners. The IDOA is authorized and encouraged to develop a forest legacy award program to recognize families and organizations that have preserved forested land for extensive periods.

Costs to the IDOA will increase by an estimated \$62,377. This total reflects increased costs for personnel as well as for additional administrative expenses, such as materials and costs associated with the ceremony.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

For 2006, the IDOA reverted \$173,000 to the state General Fund.

Department of Natural Resources: The DNR must maintain an inventory of the forests in Indiana and prepare a report on the status of Indiana's forests on a biennial basis. The DNR must cooperate with the U.S. Forest Service in carrying out these requirements. The DNR must include the following means to obtain data required for the report:

- (1) Develop and implement annual surveys of mills, landowners, timber buyers, loggers, and other appropriate entities to determine levels of timber harvesting and timber and log prices.
- (2) Use geographic information system (GIS) technology to ensure coordination with statewide GIS efforts.
- (3) Use at least 5 crews of 2 persons to perform annual data collection.

The DNR will be able to accomplish the above given its existing level of resources.

Forest Stewardship Incentives Fund: The bill establishes the Forest Stewardship Incentives Fund to be administered by the DNR. Expenses of administering the fund must be paid from money in the fund. Money in the fund at the end of a state fiscal year does not revert to the state General Fund. The DNR may expend money in the fund for cost share programs that provide financial assistance to landowners for the development of stewardship plans and stewardship practices.

Forestry Best Management Practices Board: The bill establishes the board, which consists of 13 members, to advise the DNR. The DNR must provide administrative assistance to the board. The board must meet at least once a year. DNR will be able to cover any additional administrative costs associated with the board given its existing level of resources.

Failure to Use Best Management Practices: The bill specifies a procedure that the DNR must follow when a logger fails to use best management practices. The DNR must adopt rules to implement the above provisions. DNR will be able to implement the above provisions given its existing level of resources.

Logger License: Beginning July 1, 2009, a person may not act as a logger unless the person has a logger's license from the DNR. A person who applies for a logger's license must complete an application on a form supplied by the DNR. The logger must secure a bond. If the amount realized by the DNR from a bond or security forfeited, after deducting expenses incurred by the DNR in converting the bond or security into money, is greater than the amount of the liability of the timber buyer, the DNR must pay the excess to the timber buyer who furnished the bond or security. If the amount realized by the DNR is less than the amount of liability of the timber buyer, the timber buyer's registration may be revoked. Licenses are valid for a calendar year and may be renewed annually. A person who applies for renewal of a logger's license must complete 12 hours of DNR-approved continuing education every 3 years. If the person is under the direct supervision of a licensed logger, a person may act as a logger without obtaining a license. The DNR will be able to implement the above given its existing level of resources.

Penalty: The DNR director may impose a civil penalty on a person for engaging in business as a logger without securing a license. The penalty may not exceed \$10,000. Civil penalties are deposited in the state General Fund.

Agent of a Timber Buyer: The bill increases from \$10 to \$50 the timber agent's card. It is expected that this provision will generate about \$7,000.

Criminal History Check: The bill provides that the DNR must request a criminal history check from the Indiana State Police (ISP) on each person who applies for a logger license. This provision will increase expenses for the ISP. The specific impact will depend on the number of checks requested. The ISP should be able to handle the requests with its existing level of resources.

Master Logger Program: The Natural Resources Commission (NRC) must develop and specify the requirements for the master logger program, renewal of a logger's license, and education provider approval. The NRC may establish a basic fee for the master logger program that bears a reasonable relationship to the cost of training. The DNR must maintain a current list of all loggers who have successfully completed the master logger program and required continuing education and make the list available to the public. Not later than July 1, 2009, each state park must have on staff at least one employee who has completed the master logger program. The DNR will be able to implement these provisions given its existing level of resources.

Forestry Best Management Practices Board: Members of the board consist of 13 farmers or woodland

owners with one faculty member of Purdue University; 2 members of the Indiana wood industry; and one DNR staff. Administrative costs for the board are estimated at less than \$3,000. The bill does not specify that per diem will be provided or travel expenses reimbursed.

Explanation of State Revenues: *Income Tax Deductions:* The bill allows three new deductions from federal AGI for individuals liable for income tax in Indiana for tax years beginning January 1, 2008. The impact of revenue collections would begin in FY 2009.

The first deduction is for property taxes paid on land assessed as native forest land or a forest plantation, so long as the individual did not deduct these amounts to arrive at federal AGI. The impact of this provision is indeterminable.

The second deduction is for 50% of any net long-term capital gains (NLTCG) realized on the sale of timber included in the individual's federal AGI. To estimate the impact, the following assumptions were employed. NLTCG on timber reported on Form 1040 is the same as the net gain on timber, i.e., there are no offsetting long-term capital losses. Thus, the entire NLTCG on timber is included in federal AGI carried over to IT-40. On average only 5% of timber sale revenue is offset by basis of timber disposed of, i.e. the depletion allowance. Used Department of Forestry report of average timber sales on classified forest land. County income tax assumes rate for Brown County, one that is heavily forested (rate is 1.25%). All timber sales flow through individual tax returns; no sales reported by corporations filing as C-Corps.

Impact of 50% deduction to Indiana AGI for NLTCG due to a disposal of timber on classified forests.		
	Amounts	Units
Number of sales	340	each
Average sale volume	60	MBF
Average price per MBF	\$300	
Average sale revenue	\$18,000	
Total timber revenue	\$6,120,000	
Rev. reduction for depletion	\$306,000	
Total NLTCG	\$5,814,000	
Total reduction in Indiana AGI	\$2,907,000	
Total reduction in state income tax revenue at 3.4%	\$98,838	
Total reduction in county income tax revenue @ 1.25%	\$36,338	
Total reduction in income tax revenue	\$135,176	

The third deduction is for the charitable contribution of property assessed as native forest land or forest plantation land. This third deduction may be taken to the same extent that the individual was allowed to deduct this charitable contribution under Section 170 of the Internal Revenue Code. The following assumptions were made in determining the estimate for the third deduction: donations of land in fee equal

2,000 acres valued at \$2,500. Donations of easements equal 2,000 with a value of \$1,500. No offsetting tax revenue for the sale portion of any bargain sales of land or easements was considered. The Brown County local income tax of 1.25% was used. All donations taken at FMV for long-term capital assets.

Fiscal Impact of Reduction in AGI Equal to Charitable Contribution for Donated Value of Land or Conservation Easement Reported on Form 1040	
	Amounts
Charitable donations of fee land	\$5,000,000
Eased land	\$3,000,000
Total Donations	\$8,000,000
Total Reduction in Indiana AGI	\$8,000,000
Total Reduction in State Income Tax Revenue at 3.4%	\$272,000
Total Reduction in County Income Tax Revenue at 1.25%	\$100,000
Total Reduction in Income Tax Revenue	\$372,000

Total reductions in revenue for the second and third deductions equal approximately \$507,000 annually. These deductions would be effective beginning in CY 2008 with a reduction in income tax revenue beginning to FY2009.

Background: Individual AGI Tax collections are deposited 86% in the state General Fund and 14% in the Property Tax Replacement Fund.

Section 170 of the Internal Revenue Code (IRC) sets the test for determining what amount of a deduction may be taken in a taxable year. There is a 50% and 30% test depending on the type of property contributed and the organization to which the property is contributed. The 50% test allows an amount equal to no more than 50% of the individual's federal AGI, while the 30% allows no more than 30% of federal AGI. Section 170 of the IRC also allows the remainder of any contribution above the 50% or 30% limitation to be carried forward for up to 5 years.

Forest Stewardship Incentives Fund: The bill establishes the Forest Stewardship Incentives Fund. Money in the fund at the end of a state fiscal year does not revert to the state General Fund. A logger who violates certain specified provisions may be assessed a civil penalty not to exceed \$1,000 for each violation. All civil penalties must be deposited in the fund.

Thirty days before timber may be harvested, the owner must register with the DNR and provide certain information on a form provided by the DNR. The registration form must be submitted with a \$50 registration fee. Fees collected must be deposited in the Forest Stewardship Incentives Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: See **State Revenues** above.

State Agencies Affected: IDOA, DOR, DNR.

Local Agencies Affected: Counties with local option income tax where deductions are claimed.

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